

March 12, 2008

Via ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20005

**Re: MDS Operations, Inc.
Petition for Rule Waiver of MVDDS Technical Rules
WT Docket No. 07-255**

Dear Ms. Dortch:

Pursuant to Section 1.1206(b) of the Commission's Rules, 47 C.F.R. § 1.1206(b), this letter is to provide notice of an oral *ex parte* presentation. On March 11, 2008, on behalf of petitioner MDS Operations, Inc. ("MDSO"); Dr. Bahman Badipour, President of Analytic Consulting Services ("ACS"); and Frederick M. Joyce of Venable LLP, met with Julius Knapp, Chief of the Office of Engineering and Technology; Ira Kelz, Deputy Chief of OET, Geraldine Matisse, Chief, Policy and Rules Division of OET, and Alan Stillwell, Deputy Chief of OET, concerning MDSO's above-referenced request for waiver of the power limitations applicable to Multichannel Video Distribution and Data Services ("MVDDS").

The oral presentation was consistent with MDSO's Petition in the above-captioned proceeding, as well as MDSO's January 18, 2008 Reply to the oppositions filed in the subject proceeding. Specifically, the presentation stressed the following points made in MDSO's filings in this proceeding: (1) the Albuquerque, NM market was chosen for testing because it presented the worst-case scenario for potential interference, due to the mix of urban, suburban and rural areas, and lack of climate or geological factors that would attenuate the MVDDS signal; (2) although the test was designed to replicate a commercial system, the siting of the MVDDS transmitter was such to create a worst-case scenario, by broadcasting from the north and thus precisely in the direction of satellite receivers; (3) the Albuquerque tests demonstrated that at the higher effective isotropic radiated power ("EIRP") levels requested by MDSO, the equivalent power flux density ("EPFD") limits imposed by the Commission's Rules will be met; and (4) throughout 26 days of testing, with the MVDDS transmitter operating at EIRP levels well above the maximum permitted by the Rules at all times, including during prime time, not a single complaint of interference was received from any DBS licensee or any of their customers.

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MDSO's representatives also discussed the ability of its proposal to provide high-speed broadband services in very short order, especially to rural areas. It was noted that, despite the Commission's stated policies to encourage broadband deployment, the United States lags behind other countries in this regard; a grant of the requested waiver would help to alleviate that gap.

MDSO's representatives described the overseas experience of MDSO's affiliates in building and operating MVDDS-type systems, including the systems in the United Arab Emirates and Ireland, that have operated for years without causing any interference to DBS licensees. Dr. Badipour noted that careful site engineering is critical in high-power MVDDS operations and MDSO's expertise in this area is unique.

Finally, MDSO's representatives requested prompt action on the Petition. MDSO's build-out obligations for approximately 60 licenses are due in July of 2009. Moreover, Mr. Joyce indicated that additional systems in other countries will be deployed in the near future; consequently, MDSO is facing substantial construction work and obligations over the coming year. MDSO therefore needs to begin construction of its U.S. systems as soon as possible.

Pursuant to the Commission's Rules, this *ex parte* notice is being filed electronically in the above-captioned docket through the Commission's Electronic Comment Filing System procedures. If you have any questions or require additional information, kindly contact the undersigned at (202) 344-4000.

Sincerely,



Frederick M. Joyce

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cc (via e-mail): Julius Knapp, Chief, Office of Engineering & Technology
Ira Keltz, Deputy Chief, OE&T
Alan Stillwell, Deputy Chief, OE&T
Geraldine Matise, Chief, Policy & Rules Division, OE&T
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